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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/706,896	11/13/2003	Baird M. Little	Brook.10049(33964/1020)	7758
7590 06/20/2005 GUNNAR G. LEINBERG, ESQ. NIXON PEABODY LLP CLINTON SQUARE, P. O. BOX 31051 ROCHESTER, NY 14603-1051			EXAMINER NOORI, MAX H	
			ART UNIT 2855	PAPER NUMBER

DATE MAILED: 06/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

AK

Office Action Summary

Application No.

10/706,896

Applicant(s)

LITTLE ET AL.

Examiner

Max Noori

Art Unit

2855

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
 Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 May 2005.
 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 2 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) ☐ Claim(s) _____ is/are allowed.
 6) ☐ Claim(s) 1-3, 7-14, 18-20 and 23-36 is/are rejected.
 7) ☐ Claim(s) 4-6, 15-17, 21, 22 and 27-29 is/are objected to.
 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
 Paper No(s)/Mail Date _____.
 4) ☐ Interview Summary (PTO-413)
 Paper No(s)/Mail Date _____.
 5) ☐ Notice of Informal Patent Application (PTO-152)
 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-3, 12-14, 19-20, 23 and 26 are rejected under 35 U.S.C. 102(e) as being anticipated by Gentner et al.

Regarding claims 1, Gentner et al., discloses a method and apparatus for monitoring milking facility pulsation which is a clear indication of air pressure, with features of the claimed invention including a source of light capable of providing more than one color corresponding to a pressure level of an inflatable item, and a display means to display the pressure. (See claims 1 and 2).

Regarding claim 2, 12, the art show a pressure sensor, and computer associated with the pressure sensor and the displayed colors (see figure 6).

Regarding claim 3, it is known that a computer generally has memory and processor.

Regarding claims 13-14, the cited art recite a pressure comparison (col. 10, line 7, part c).

Regarding claims 19-20, and 26 the microprocessor is considered to be means for defining a function performed by the pressure gauge.

Regarding claim 23, the cited art shows attachment of the monitoring device is properly attached to the inflatable item.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 7-11, 18, 24-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gentner et al.

Regarding claim 7, due to the specific design, Gentner et al., does not explicitly shows any valve for attachment, and the corresponding figure show simple attachment to the milking facility. However, had this concept was used for any system, it would have been obvious for a skilled artisan at the time of the invention to modify Gentner et al., to add a valve for the purpose of attachment to any desired pressure (or vacuum) system. In addition, the cited art shows the use of user interface mechanism for programming and adjustment.

Regarding claim 8, the user interface has a plurality of bottoms (element 57).

Regarding claims 9, 18, 24, a computer is capable of storing plurality of target values.

Regarding claim 10, the interface has a plurality of bottoms (the steps of programming such as pressing or releasing not being given substantial patentable weight, since the claim is an apparatus claim and the steps do not contribute to the structures of the apparatus claim).

Regarding claims 11, 25, most valves accompany with bleeding structure.

5. Claims 4-6, 15-17, 21-22, and 27-29 due to the presence of a third color, are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Amendment

6. Applicant's amendment and arguments filed 5/20/05 have been fully considered but they are not persuasive. It is believed that Gentner in addition to a source of light, and a display, shows an inflatable item, air pressure and correspondence of the color of light to a numerical values of the pressure. The hoses of Gentner clearly are inflatable items because they satisfy the definition of such term, it is not a conduit or pipe, but a hose; which is naturally made of flexible material and therefore is inflatable. It is also pointed out that depending on the amount, and the thickness of the material, an inflatable item can take vacuum too. In terms of the air pressure, the pulsation vacuum measurement is in fact air pressure measurement. With respect to numerical value, it is believed that each of the green light or red is related to a numerical value range, i.e., when the pressure or vacuum exceeds a threshold (obviously corresponding to a limiting numerical value), the other light will led. Therefore, the cited art shows all the elements of the rejected claims. Therefore the same rejection still stands.

7. THIS ACTION IS MADE FINAL. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for response to this final action is set to expire THREE MONTHS from the date of this action. In the event a first response is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period

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will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event will the statutory period for response expire later than SIX MONTHS from the date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Max H. Noori whose telephone number is (571) 272-2185. The examiner can normally be reached on Tuesday-Friday from 8:00 AM to 6:00 PM.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-0956. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306. The central fax number is (703) 827-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

MHN

Wednesday, June 15, 2005

A handwritten signature in black ink, appearing to read 'M. Noori', with a stylized flourish at the end.

MAX NOORI
PRIMARY EXAMINER